THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26981 OF 1998

Dated 18th April 2007

Between:

M/s.Uni Metal Alloys Limited,
Rep.by its Director Samir Kumar Bhagat

…Petitioner

and

Andhra Pradesh State Electricity Board,
Rep.by its Member Secretary, Somajiguda,
Hyderabad & others.

…Respondents

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O R D E R:

The petitioner is an industry established in the year 1996 and is provided with HT power supply. By 1996, there existed an agreement for Contracted Maximum Demand (CMD) of 3250 KVA. The power supply was disconnected on 30.11.1996. The petitioner was issued a notice, dated 5.3.1997, demanding a sum of Rs.44,70,717.33 ps. This was followed by a notice, dated 23.4.1997, for termination.

The petitioner made a representation, dated 17.3.1997, for deration of CMD from 3250 to 1490 KVA. Much before this request lead to any kind of action, the petitioner submitted a representation, dated 4.12.1997, to derate the CMD to 90 KVA.

The request of the petitioner was acceded to by the respondents, through their proceedings dated 13.2.1998. Even before the steps indicated in the said proceedings could be taken, the petitioner made a representation, dated 6.6.1998, for refixing the CMD at 600 KVA. This was also acceded to by the respondents, through their letter dated 27.6.1998, and consequently, an agreement was entered into on 31.10.1998.

The respondents issued a demand notice, for a sum of Rs.14,30,611/-, under seven separate heads. The petitioner disputes the levy on three different counts, towards minimum charges from March 1997 to May 1998, minimum charges for CMD of 3250 KVA from 23.5.1998 to 12.6.1998 (20 days), and minimum charges for CMD of 600 KVA, from 13.6.1998 to August 1998.

Petitioner contends that the actual liability arises, only on release of power supply, consequent upon the revision on 31.10.98, and that the demand under the heads mentioned above is untenable.

The respondent filed a counter affidavit, opposing the claim of the petitioner. It is stated that the petitioner is under obligation to pay minimum charges, even without there being the revised agreement. Reference is made to Clause 33.2 of the terms and conditions of supply.

Heard the learned counsel for the petitioner and learned Standing Counsel for the respondents.

The area of controversy in this writ petition is very limited. The petitioner does not dispute its obligations, to pay the minimum charges, up to the stage of deration of CMD. It is urged that the deration comes into force by operation of law, and even in the absence

of any specific agreement, in pursuance of their proceedings dated 13.2.1998, the CMD stood derated to 90 KVA.

The net result of various proceedings, that emanated from the respondents, is that the CMD, in relation to the petitioner, stood derated from 3290 to 90 KVA, with effect from 13.2.1998. Therefore, the petitioner is liable to pay the minimum charges for 90 KVA, from that date onwards. This arrangement is deemed to be in force, till it was revised to 600 KVA, vide proceedings dated 27.6.1998. From that date onwards, the petitioner shall be under obligation to pay the minimum charges for 600 KVA. The fact that the consequential agreement came to be executed on 31.10.1998, makes hardly any difference. If the contention of the petitioner that the change in CMD would come into force, only with the execution of the corresponding agreement is to be accepted, the question of the deration of CMD, from 3250 to 90 KVA does, not arise. The petitioner cannot have it both ways.

For the foregoing reasons, the writ petition is disposed of, directing that for the period, between 13.2.1998 and 27.6.1998, the petitioner shall be under obligation to pay the minimum charges for 90 KVA, and from 27.6.1998 to August 1998, for 600 KVA. The period subsequent thereto is already covered under other items, under the impugned notice. There shall be no order as to costs.

18th April 2007

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